

DOCKET FILE COPY ORIGINAL

PRIVATE RADIO BUREAU EXHIBITS
CAPITOL RADIOTELEPHONE, INC., ET AL., PR DOCKET NO. 93-231

1. RAM Technologies' Request for Admissions to Capitol Radiotelephone Company, Inc., dated October 12, 1993 (5 pages). Official Notice.
2. Declaration of Robert A. Moyer, Jr., dated November 26, 1990 (1 page).
3. FCC memo, dated September 5, 1991, from EIC Baltimore to Chief, Inspections and Investigations Branch (5 pages). To be sponsored by James Walker.
4. FCC memo, dated November 16, 1992, from James Walker or Donald Bogert to Chief, Compliance Branch concerning Capitol's response to Notice of Apparent Liability to Forfeiture (NAL) (3 pages). To be sponsored by James Walker or Donald Bogert.
5. Customer lists provided to FCC at time of inspection (3 pages). To be sponsored by James Walker or Donald Bogert.
6. Declaration of Raymon A. Bobbitt, dated November 26, 1990 (1 page).
7. Declaration of Forrest A. Collier, dated November 26, 1990 (1 page).
8. Declaration of A. Dale Capehart, attached to letter from Frederick M. Joyce, dated March 5, 1991 (4 pages).
9. Declaration of Luke A. Blatt, dated August 28, 1992 (2 pages).
10. PRB's 308(b) letter to Capitol, dated May 19, 1992 (2 pages). Official Notice.
11. Capitol's June 17, 1992, response to PRB's May 19, 1992, 308(b) letter (54 pages). Signed "under penalty of perjury" by J. Michael Raymond.
12. Notice of Apparent Liability (NAL) for a monetary forfeiture, dated July 30, 1992, to Capitol (4 pages). Official Notice.
13. "Rebuttal Statement," dated September 30, 1992, responding to PRB's July 30, 1992, Notice of Apparent Liability for monetary forfeiture (19 pages). Supported by declarations of J. Michael Raymond and Russell Harrison "under penalty of perjury."
14. PRB's Request for Production of Documents, dated November 18, 1993, directed to Capitol (7 pages). Official Notice.
15. Cover letter, dated December 1, 1993, from Capitol's counsel Kenneth E. Hardman, responding to PRB's Request for Production of Documents (2 pages). Official Notice.

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<u>Federal Communications Commission</u>	
Docket No. <u>93-231</u>	Exhibit No. <u>1</u>
Presented by <u>PRIVATE RADIO BUREAU</u>	
Disposition	Identified <u>✓</u>
	Received _____
	Rejected _____
Reporter <u>M.K.F.</u>	
Date <u>2/1/94</u>	

* NOT OFFERED

OCT 12 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matters of)
)
Application of)
)
CAPITOL RADIOTELEPHONE, INC.) PR Docket No. 93-231
d/b/a, CAPITOL PAGING)
)
For a Private Carrier Paging)
Facility on the 152.48 MHz)
Frequency at Huntington/Charleston)
West Virginia;)
)
Imposition of Forfeiture Against)
)
CAPITOL RADIOTELEPHONE, INC.)
d/b/a, CAPITOL PAGING)
)
Former Licensee of Station WNSX-646)
in the Private Land Mobile)
Services;)
)
Revocation of License of)
)
CAPITOL RADIOTELEPHONE, INC.)
d/b/a, CAPITOL PAGING)
)
Licensee of Stations WNDA-400 and)
WNWW-636 in the Private Land)
Mobile Services;)
)
Revocation of License of)
)
CAPITOL RADIOTELEPHONE COMPANY,)
INC.)
)
Licensee of Stations KWU373,)
KUS223, KQD614, and KWU204 in)
the Public Mobile Radio Service.)

To: Hon. Joseph Chachkin, Administrative Law Judge

**RAM TECHNOLOGIES' REQUEST FOR ADMISSIONS
TO CAPITOL RADIOTELEPHONE COMPANY, INC.**

RAM Technologies, Inc. ("RAM"), by its attorneys and pursuant to Section 1.246 of the Commission's Rules, 47 C.F.R. § 1.246, hereby requests that Capitol Radiotelephone Company, Inc.

("Capitol") admit that the following statements are true. These admissions are for the purposes of this action only and are subject to all pertinent objections to admissibility that may be raised at the hearing. In accordance with 47 C.F.R. § 1.246(b), any matter not denied within ten (10) days after service of these requests shall be deemed admitted. Also pursuant to Section 1.246(b), the response to these requests shall either admit the statement, deny it, or set forth in detail the reasons why Capitol cannot truthfully admit or deny the statement. If good faith requires that Capitol deny only part of a statement or qualify a matter of which an admission is requested, Capitol shall specify so much of it as is true and deny only the remainder.

Request for Admissions

1. From November 15, 1990 through November 18, 1990, Capitol operated Station WNXS-646 on the 152.48 MHz frequency in the Huntington and Charleston, WV areas transmitting a steady stream of digital transmissions.

2. From November 15, 1990 through November 18, 1990, Capitol retransmitted completed radio common carrier ("RCC") pages over Station WNXS-646.

3. On March 4, 1991, Capitol was repeatedly transmitting the call sign of Station WNSX-646 without monitoring co-channel traffic.

4. From July 17 through 19, 1991, Capitol transmitted on the 152.48 MHz frequency by causing Station WNSX-646 to repeat separate two-tone type pages in sequence every 90 seconds.

5. On August 12, 13, 14 and 15, 1991, Capitol repeatedly transmitted on the 152.48 MHz frequency over Station WNXS-646.

6. None of the transmissions on Station WNXS-646 from August 12 through 15, 1991 were related to an actual page to a customer.

7. From August 12 through 15, 1991, Capitol transmitted the Morse code identification of Station WNSX-646 at a rate of seven words per minute.

8. At no time has Capitol had more than twenty-two subscribers to its PCP services on Station WNSX-646.

9. The Greenup County Rescue Squad is not a subscriber to Capitol's PCP services on Station WNSX-646.

10. The Greenup County Rescue Squad has never been a subscriber to Capitol's PCP services on Station WNSX-646.

11. The Greenup County Rescue Squad has never sought any relationship with Capitol for the provision of paging services in connection with its public safety function.

12. On or about August 27, 1992, Capitol retransmitted their completed RCC pages over Station WNXS-646.

13. Prior to commencement of its PCP radio transmissions, Capitol employees or representatives informed potential paging subscribers that RAM's PCP system would be experiencing interference or delays.

14. There were more than one unused PCP frequencies, other than 152.480, available to Capitol at the time it applied to use the 152.480 frequency.

15. Capitol was aware at the time it filed for its 152.480

MHz PCP license that RAM was a licensee on the 152.480 MHz frequency.

16. Capitol was aware at the time that it filed for its 152.480 MHz PCP license that the 152.480 MHz frequency was busy with RAM's customers' paging traffic.

17. At the time that Capitol filed for its 152.480 MHz PCP license, it already had sufficient capacity on its RCC paging channels to accommodate its paging customers.

18. Capitol has given away paging units to third parties for use on the 152.480 MHz frequency.

19. Capitol has referred to PCP service in its promotional material as "party line" service.

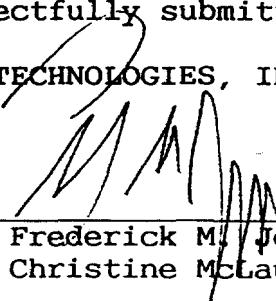
20. On or about August 2, 1993, Capitol did not have any paying subscribers operating on its 152.480 MHz PCP system.

21. Capitol has never earned any revenues from its PCP system.

Respectfully submitted,

RAM TECHNOLOGIES, INC.

By


Frederick M. Joyce
Christine McLaughlin

Its Attorneys

JOYCE & JACOBS
2300 M Street, N.W.
Suite 130
Washington, DC 20037
(202) 457-0100

October 12, 1993

CERTIFICATE OF SERVICE

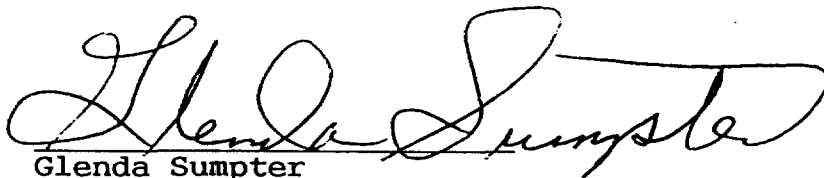
I, Glenda Sumpter, a secretary with the law firm of Joyce & Jacobs, hereby certify that on this 12th day of October, 1993, copies of the foregoing Request for Admissions were served, by first-class U.S. mail, postage prepaid, upon the following:

Hon. Joseph Chachkin *
Administrative Law Judge
Federal Communications Commission
2000 L Street, N.W.
Room 226
Washington, DC 20554

John J. Borkowski, Esq. *
Land Mobile and Microwave Division
Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W.
Room 5202
Washington, DC 20554

Kenneth E. Hardman, Esq.
1255 23rd Street, N.W.
Suite 830
Washington, DC 20037

T. D. Kauffelt, Esq.
Kauffelt & Kauffelt
803 Kanawha Valley Building
P.O. Box 3082
Charleston, West Virginia 25331



Glenda Sumpter

* denotes hand delivery.

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Federal Communications Commission	
Docket No. <u>93-231</u>	Exhibit No. <u>2</u>
Presented by <u>PRIVATE RADIO BUREAU</u>	
Disposition	Identified <u>✓</u>
	Received <u> </u>
	Rejected <u>✓</u>
Reporter <u>M.K.F.</u>	
Date <u>2/1/94</u>	

Declaration of Robert A. Moyer, Jr.

I, Robert A. Moyer, Jr., being of at least 21 years of age and a citizen of the United States, do hereby declare under penalty of perjury as follows:

- (1) I am employed by RAM Technologies, Inc. as President and Chief Executive Officer. I have been involved in the radio communications business since 1968.
- (2) On Thursday, November 15, Friday, November 16 and Saturday, November 17, 1990 while in the office I received a telephone call from our Charleston office indicating they were unable to complete pages to that area of RAM's Paging System. After advising our service manager, Forrest Collier, I began to monitor 152.480, RAM's paging frequency, and found that there was an enormous amount of other digital traffic being generated by other users on the system. After further monitoring, it was determined that Capitol Radio Telephone, which is licensed to use the 152.510 exclusively as a common carrier, was cross banding all digital traffic from their 152.510 Mhz system to 152.480 Mhz. This interference and cross banding continued throughout the weekend.
- (3) The method used to verify the interference was a Selectable and Programable VHF 150 to 160 Receiver used in the industry. The interference was verified and almost a perfect "stereo" effect occurred when both channels were transmitting.
- (4) In addition to interference received by Capitol's cross banding of traffic, our control frequency 460.750 was getting dead carriers disrupting our paging system causing missed pages. To date, we have not identified the source of that harmful interference.

I declare under penalty of perjury that the foregoing is true and correct to the best of my own personal knowledge.

DATE EXECUTED: 11-26-90

BY: Robert A. Moyer Jr.

Sworn and subscribed before me this 26th day of November, 1990.

Barbara J. Foxgrove
NOTARY PUBLIC

My commission expires: 3-21-94.

<u>Federal Communications Commission</u>	
Docket No. <u>93-231</u>	Exhibit No. <u>3</u>
Presented by <u>PRIVATE RADIO BUREAU</u>	
Disposition	Identified <u>✓</u>
	Received <u>✓</u>
	Rejected <u> </u>
Reporter <u>M. K. F.</u>	
Date <u>2/1/94</u>	

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FEDERAL COMMUNICATIONS COMMISSION

1017 Federal Building
Baltimore, Maryland 21201

September 5, 1991

TO: Chief, Inspections and Investigations Branch

FROM: EIC Baltimore

RE: Case # 91-I-2411, local # BM-9100909

SUBJECT: RAM TECHNOLOGIES, INC.(WNJN621) & CAPITOL RADIOTELEPHONE
COMPANY INC. (WNSX646)

An investigation, as requested by Private Radio Bureau, of the operation of the SUBJECT stations was conducted during the week of August 12, 1991 by Donald Bogert and James Walker of this office. The following summary is submitted by Mr. Walker.

Both Licensees have had several phone conversations with me, as well as written correspondence, during the past several months, where they have complained that the other is causing harmful interference. Each has claimed that they were not guilty of any wrong doing and would welcome an FCC inspection. I advised each that they must monitor and determine that the frequency was not in use before beginning to transmit. Capitol was advised against excessive testing, as reported by Ram. I also advised that if an inspection became necessary because of their inability to share the frequency I would be attempting to find violations for which substantial penalties could be assessed.

Monitoring of activity on 152.48 MHz and 157.74 MHz was conducted in the Charleston, WV area on 8/12/91 and 8/13/91. On several occasions on each date it was observed that Ram Technologies would cease transmitting, Capitol would begin transmitting, then Ram would resume transmitting prior to the time that Capitol ceased transmitting. Such activity on Ram's part is perceived to be capable of causing harmful interference to Capitol's operation.

Capitol was also noted, on each date, as beginning and ending transmissions during times when Ram was transmitting. This activity is deemed to be capable of causing harmful interference to Ram's operations.

It should be noted that all of Capitol's paging transmissions appeared to be identical. Those pages consisted of a set of two sequential tones, the sequence repeated once, followed by a second and third set of sequential tones. This set of transmissions appeared to be sent once every 1 minute and, when the frequency was busy, would be stored for transmission when air time was available. It also appeared that these tones utilized an excessive amount of time. No other transmissions were noted, except the station's morse identifier operating at approximately 7 words per minute instead of the prescribed 20 to 25 words per minute.

On the afternoon of 8/13/91 and the morning of 8/14/91 similar monitoring was conducted in the Huntington, WV area. Although no specific notes as to time of the event were kept, the same type of activity was observed on both dates. Ram would cease transmitting, Capitol would begin transmitting, and Ram would resume transmitting prior to Capitol's ceasing transmissions. Capitol would also transmit during the time that Ram's transmitters were activated.

All of the above activity was noted on 152.48 MHz. A third station, WNLM930, was also noted several times during our monitoring. That station did not appear to cause any interference. During an estimated 12 hours of monitoring during these three days, only one brief exchange of transmissions was noted on 157.74 MHz and the station was not identified.

An inspection of Ram's facilities was conducted on the afternoon and evening of 8/14/91. Ram was very informative about their operation of the paging terminal equipment and software. During the inspection, Mr. Dale Capehart volunteered the fact that Ram had installed a timer on its monitoring device. Such timer and monitoring hardware were designed to delay activation of Ram's transmitters for approximately 2 minutes or until the frequency was not in use, which ever came first. This explains why Ram would, during busy times, begin transmitting prior to Capitol's completion of transmissions. [REDACTED]

[REDACTED] Chief, Land Mobile and Microwave Division is aware of and has approved of the use of the timer which permits Ram to resume transmitting after 2 minutes whether the frequency is in use or not.

The only other noted discrepancy was that Ram's transmitter at Burlington, OH was operating with approximately 375 watts of output power, instead of the authorized 350 watts, according to a watt meter built into the Quintron transmitter. Mr. Capehart and Mr. Forrest Collier claim the meter is frequently calibrated against a Byrd wattmeter. We do not feel that the accuracy of this power reading is adequate to prove that the station was definitely operating in excess of the authorized power level.

An inspection of Capitol's facilities was conducted on 8/15/91. That inspection began at Capitol's offices in Charleston, WV. We first introduced ourselves to Mr. Dan Stone, President of Capitol Radiotelephone Co. Inc., and began questioning him concerning the purpose of the ongoing "test" pages. He stated that such testing was for the purpose of range testing for a new control link frequency. When the validity of this was questioned, his story changed to one of testing to determine coverage of the paging system. We then asked if anyone was in the field to receive those tests and he replied "yes", but that we would need to talk to Mr. Raymond, the general manager, about that. Mr. Stone then asked Bob Wilson, the office manager, to assist us and Mr. Stone left the room.

We then began looking at the programmed parameters of the paging terminal and found that although there was a test pager number programmed into the Charleston paging terminal, the test function was disabled. Mr. Wilson was unable to explain how the testing was being accomplished. Mr. Stone returned to advise that Mr. Raymond would be available in a few minutes. When asked how the test paging was accomplished, Mr. Stone stated that we would have to discuss this with Mr. Raymond also and again left the room. Mr. Wilson and I then looked at the recent activity of the terminal. This recent activity function provides data for the previous 100 pages but the data is lost once viewed. Mr. Wilson stated that the channel we were interested in was identified in the system as "chan B". Several groups of three "chan B" pages were noted. We observed the pager activity for a few minutes and saw that several groups of "chan B" pages were sent.

Mr. Wilson then advised that those pages originated from a second terminal in Huntington, WV. Mr. Wilson contacted personnel in the Huntington office and explained that he had an urgent need to be connected to the Huntington terminal. Such connection was accomplished, via modem, but the connection was broken by Huntington office staff immediately. Mr. Wilson again contacted the Huntington office and was told that he could now access the terminal and that he had been disconnected because some one in Huntington had to do something quickly. At this time, we found that, on the Huntington terminal, the test function was disabled and there was no test pager number displayed. We observed the paging activity for approximately another 30 minutes and saw no activity on "chan B". During this time, Mr. Bogert had gone back to the FCC vehicle to monitor and determined that the test paging had ceased. Mr. Bogert did note that the frequency was available for Capitol to transmit on several occasions but no such transmissions occurred. Just prior to entering the facilities, monitoring revealed that Capitol was continuing its "test" paging.

Soon, Mr. Raymond arrived and began showing Mr. Bogert and I how the paging system functioned. Then Mr. Rusty Harrison, the Huntington manager, arrived. Mr. Harrison did not appear to have prior knowledge of our presence and I began to question him while Mr. Bogert continued with Mr. Raymond. Mr. Harrison showed me how the test paging was supposed to be accomplished. [REDACTED]

[REDACTED] He provided the test pager number and we were able to then see how the program had been set up. Mr. Harrison then phoned the Huntington office and relayed to me that the secretary had noted that the test pages were being sent and she knew that no one was in the field to take advantage of the tests so she disabled the feature. Mr. Raymond still had not begun to disclose how the test paging was accomplished.

We did not get the opportunity to talk to the secretary directly, but have some suspicions. First, we suspect that she was directed to disable the testing either by Mr. Stone, Mr. Raymond, or, less likely, Mr. Harrison. Secondly, it would seem inappropriate to delete the pager number from the test function if testing is to continue in the near future, as indicated by Mr. Raymond and Mr. Harrison, unless this were an effort to conceal something. Thirdly, almost immediately after we obtained access to the Huntington paging terminal, via modem from Charleston, we were physically, without notice, disconnected from the Huntington paging terminal by staff in the Huntington office. The Huntington staff had been told by Mr. Wilson, that the Charleston staff had an urgent need to have access to the Huntington Terminal. I believe it was during this period of disconnection that the test function was disabled. On several occasions Mr. Stone claimed he could not answer questions concerning the operation of facilities on 152.48 MHz, stated that we would have to discuss these items with Mr. Raymond and left the room. There was more than ample opportunity for him to contact appropriate personnel and have the test set-up deleted.

It was found that the test set-up transmitted to pager # 1600, repeated that transmission, then transmitted to # 1105 and # 1106 in turn. The "tone duration" was set to "4" which produced a duration for the first tone of 1.0 second and a duration of the second tone of 3.0 seconds. This test was set to run each 1 minute and consumed in excess of 20 seconds, or more than 1/3 of the available time. Some limited testing was done later utilizing a tone duration of "2" which yielded tone durations of 0.4 seconds and 0.8 seconds respectively for the first and second tones. This shorter tone duration did trigger the paging receiver reliably in both the Charleston and Huntington areas with the only failures attributable to poor audio quality believed to have been produced by the paging terminal equipment. The reduced duration of the tones would permit the information to be transmitted in approximately 7 seconds instead of the previously observed 20 seconds plus. Although denied by Capitol, it is my contention that the test transmissions are excessive in frequency and duration and an effort to prevent other licensees, particularly Ram, from utilizing the frequency to its maximum.

The inspection of Capitol's facilities also revealed the following:

- (1) Capitol is operating with borrowed, 100 watt, nominal, transmitters, although authorized for 350 watts output power.
- (2) There is 120 volt AC exposed which I deem a safety hazard to anyone working around the transmitters.
- (3) They are utilizing a modified scanner to determine if the frequency is busy and if so, disable their transmitters. The scanner's squelch function is still variable from the front panel and does have an effect on when the paging terminal can be activated.
- (4) When pushed for documentation, Capitol showed evidence of only three customers with one paging receiver each. This is contrary to Mr. Stones earlier contention that Marshall University in Huntington was one of his largest users.
- (5) The Huntington transmitter may be located where described by the coordinates but that is a long ways from the street address of "1.5 MI S OF HUNTINGTON AIRPORT" specified on the license. According to my map, "3.5 MI NE OF HUNTINGTON AIRPORT" would be nearer correct. Mr. Raymond's explanation is that this must be correct since all of his other licenses say the same thing.
- (6) When a storm damaged some of Capitol's common carrier equipment in April (?) equipment was taken from this system to get the common carrier system back in operation.
- (7) During initial tests to determine whether shorter paging tones would activate the paging receiver, (which Capitol guaranteed would not work), Capitol provided a defective test paging receiver. Perhaps this was coincidental, perhaps not.
- (8) It was never revealed how Capitol was able to transmit while Ram was using the frequency.

It would appear from the above that Capitol is not serious about providing a private carrier paging service but merely disrupting Ram's attempts to provide such a service by occupying as much airtime as they can justify (to themselves). It further appears that Ram, in retaliation, has wilfully interfered with Capitol's transmissions by installing a timer which will permit Capitol, or any other user, no more than 2 minutes (nominal) to complete their transmissions then begin transmitting whether the frequency is in use or not.

From the above, it appears that Ram Technologies Inc. (WNJN621) and Capitol Radiotelephone Co., Inc. (WNSX646) have both wilfully violated Section 90.403(e) which requires stations to take reasonable steps, including monitoring, to avoid causing harmful interference. Further it appears that Capitol has also wilfully violated Section 90.405(a)(3) by not keeping testing to a minimum and Section 90.425(b) in that its' Morse code station identification is being transmitted at approximately 7 words per minute instead of the prescribed 20 to 25 words per minute.

Specific recommendations as to what action should be taken against these licensees is not offered here as Private Radio Bureau has requested only that monitoring and an inspection be conducted and the results reported.

<u>Federal Communications Commission</u>	
Docket No. <u>93-231</u>	Exhibit No. <u>4</u>
Presented by <u>PRIVATE RADIO BUREAU</u>	
Disposition	Identified <u>✓</u>
	Received <u> </u>
	Rejected <u>✓</u>
Reporter <u>M. K. F.</u>	
Date <u>2/1/94</u>	

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Federal Communications Commission
1017 Federal Building
31 Hopkins Plaza
Baltimore, Maryland 21201

MEMORANDUM

Date: November 16, 1992

Reply to
Attn of: James Walker or Donald Bogert

Subject: Reply to Capitol Radiotelephone Inc.'s response dated 7/30/92

To: Chief, Compliance Branch
Land Mobile and Microwave Division, Private Radio Bureau

ATTN: John J. Borkowski

Capitol's claim of testing for the purpose of providing group call service to members of the Greenup County Rescue Squad is, in our opinion, not valid. This is the first time to our knowledge that Capitol has claimed to have been attempting to provide such a service. It was not mentioned during our inspection.

We spoke with John Rowe, with Greenup County Rescue Squad, on 11/10/92. Mr. Rowe acknowledges that he spoke with Capitol about trying to get paging service for a few of the Squad members. Although this was not sanctioned by the Squad, Chief Allen Hoy and Todd Eastham, chairman of the board, were aware of his efforts. It appears that this proposed service was not for Greenup County Rescue Squad but merely for a few individuals who are not eligible to hold a license under Part 90 and thus not eligible for service from a Private Carrier Paging system.

Mr. Rowe stated that the tests that were conducted would result in pages being transmitted only to 3 to 5 of the targeted 10 to 15 paging receivers. From the discussion with Mr. Rowe and review of Capitol's reply, it appears that the paging terminal failed to send the required pages to the transmitter. Mr. Rowe also advises that he believes the testing was conducted during May, June and perhaps July and definitely not mid August, 1991. Mr. Rowe further stated that he believes the pagers were returned to Capitol before Sept, 1991.

Mr. Rowe stated that the test pages were not automatic and the rescue squad members conducted up to 10 test pages per month following system changes. Mr. Harrison stated in his declaration that he manually conducted approximately 10 such test pages per day after system changes. Mr. Harrison stated that he also conducted automatic test paging in the late afternoon occasionally and on one occasion the secretary failed to contact the Charleston office to have the testing turned off for the evening. All of this admitted testing combined does not equal the amount of test pages we observed nor does it agree with the times we made those observations.

Mr. Rowe says that Greenup County is large and is 30 miles or more from Capitol's Huntington transmitter. It appears that this Huntington transmitter, the closest to Greenup County that we are aware of, is the one which was supposed to provide the proposed service to the rescue squad members. Mr. Rowe further implied that Capitol's transmitter did not provide adequate coverage. During our inspection Capitol's borrowed transmitter was found to be putting out only 76 watts where 350 watts was authorized. It is our opinion that the Huntington transmitter is not capable of providing the proposed service.

We take exception to Capitol's claim of having a "properly functioning inhibitor". On several occasions during our monitoring on August 12, 13 and 14, 1991 we noted that Capitol began transmitting while Ram's transmitters on this channel were still active. During the inspection of Capitol's facilities on August 15, 1991 it was found the "inhibitor" consisted of a modified scanning receiver with a totally functioning front panel squelch control. The squelch setting will effect whether the receiver detects a signal. We have spoken with individuals in the paging industry and these people indicate that a fixed tuned receiver or dedicated phone line is a more industry accepted method for providing for transmitter inhibiting circuitry where channels are shared.

Capitol had set their paging terminal to send test pages once each minute. Those test pages consumed in excess of 20 seconds each time. We found that those same tests could be transmitted in approximately 7 seconds without any noted degradation. Also repeating these tests each minute seems extremely excessive. We therefore do not agree with Capitol's claim that testing was being kept to a minimum. Further, if this was legitimate testing why did Capitol discontinue that testing when we arrived for the inspection and apparently attempt to hide the fact that they had been testing?

Capitol claims to have not deliberately set the Morse Code identifier at 7 words per minute. Perhaps this is true but they knew that the identifier was being transmitted and had they bothered to check they would have noted that the rate was incorrect. It further appears from Mr. Raymond's declaration, that the Morse Code identifier rate was left at the 7 words per minute rate until at least July 30, 1992 despite being told on August 15, 1991 that the rate must be between 20 and 25 words per minute instead of the approximately 7 words per minute rate being used.

In Mr. Harrison's declaration he states that the paging terminal was set to an automatic test mode in the late afternoon and on one occasion the secretary failed to contact the Charleston office to have the testing discontinued. When we were conducting our inspection, the test paging was discontinued and the setup erased from the paging terminal all from the Huntington office. During our monitoring, we observed this automatic testing during late morning through late afternoon on 8/12, 13 and 14/91. On the morning of 8/15/91 the test pages were observed being transmitted from approximately 9:00 AM until approximately 11:00 AM. Contrary to Mr. Harrison's implication, our observations indicate that the Charleston office had access to the Huntington paging terminal, the source of the test paging, only via modem and only at the discretion of staff in the Huntington office.

Our conclusions in this case have not been changed by Capitol's reply. We believe that Capitol was conducting excessive test paging on the frequency and thereby interfered with Ram's operations. We can [REDACTED]

[REDACTED] however we believe that Capitol did not take appropriate steps to prevent such interference. Early in this case Ram stated that it proposed a telephone line interconnection of the transmitters, on a shared cost basis, in order to prevent this problem. Capitol supposedly rejected this proposal due to cost.

Capitol began operation on this frequency by investing little into the operation. They utilize borrowed transmitters which are not capable of operating even near the authorized power levels. The only transmitters are at locations they already occupy thus there is minimal additional expenses involve there. The control transmitters are "jury rigged" mobile radios. We consider the electrical wiring to the transmitters to be hazardous and probably not in compliance with local building codes. We believe that if Capitol were serious about providing service as they claim, they would have made a reasonable investment in equipment in order to ensure some degree of adequacy and reliability. Instead, they removed equipment from this system, completely disabling the system, to restore service to the Common Carrier system, to which they appear much more devoted.

Capitol gives the impression they don't even know who there subscribers are as each time FCC has asked for a list of subscribers or even how many subscribers there are, Capitol provides a different list.

We do not see any justification for reduction or cancellation of the forfeiture.

Federal Communications Commission

Docket No. 93-231 Exhibit No. 5

Presented by PRIVATE RADIO BUREAU

Disposition

Identified

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Received

✓

Rejected

Reporter M.K.F.

Date 2/1/94

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PRIVATE RADIO BUREAU EXHIBIT NO. 5

used
and Huntington
terminal
6/15/91

Pioneer Home Improvement
Jimmy Up Smith Painting Co.
Westend Cabins

have local system
right now.

REMC

Huntington Garage Door

Shutab Marina

John Roe

(2) Wilson's Wrecker & Towing Service

had local,

now have BPR

until other is

completely up

Rotary Apts.

Westwood Apts.
Pax

had local, returned

totally because of

not working system.

Private Carrier 152.480 MHz
 Charleston, WV
 August 16, 1991

Number	Account Name	Address	City, State, Zip	Contact
341-1943	Test-Mike Raymond	-	-	-
341-2818	Capitol Paging - Loaner	-	-	-
341-2812	Malcom Combs*	1823 Gordon Drive	Charleston, WV 25383	-
341-2822	Inventory	-	-	-
341-2824	James Haught**	218 Broad Street	Charleston, WV 25381	344-1738
341-2825	Inventory	-	-	-
341-2619	Kathy L. Smith*	508 1/2 19th. St	Dunbar, WV 26064	768-6045
341-2841	Earnie White*	819 5th. Street	Dunbar, WV 26064	-
341-2478	Monitor-Bobby	-	-	-
341-4782	Unknown	-	-	-
341-4841	Test-Billy Macallister	-	-	-
341-5262	Gary Martenburg*	P.O. Box 655	St. Albans, WV 25177	722-6816
341-9219	Test-Mike Raymond	-	-	-

*Canceled or returned because of system problems.
 **Changed to 152.159MHz because of system problems.

Private Carrier 152.480 MHz
Huntington, WV
August 16, 1991

Number	Account Name	Address	City, State, Zip	Contact
528-1105	Test	-	-	-
528-1106	Test	-	-	-
528-1370	Inventory	-	-	-
528-1548	Inventory	-	-	-
528-1600	Test	-	-	-
528-1606	Pioneer Home Improvement	730 7th. Ave.	Huntington, WV 25701	522-6593 Corley
528-1637	Test	-	-	-
528-1638	Rotary Garden Apartments*	65 Smith Drive	Huntington, WV 25705	522-7375 T. Brown
528-1639	Rotary Garden Apartments*	65 Smith Drive	Huntington, WV 25705	522-7375 T. Brown
528-1642	REMC	3440 8th. St.	Huntington, WV 25701	525-7248
528-1643	Westwood Acre Apartments*	2402 W. 5th. Ave	Huntington, WV 25705	429-6759
528-1644	Westend Custom Cabinets	929 14th. St. W	Huntington, WV 25704	522-4593
528-1645	Huntington Garage Door	3989 16th. St.	Huntington, WV 25701	522-3830 522-3839
528-1655	Test	-	-	-
327-2057	John Rowe	67 Belefant Rd	Raceland, KY 41169	(606) 836-7828 327-1520
327-2081	Inventory	-	-	-
528-3397	Test	-	-	-
528-3798	Inventory	-	-	-

*Canceled or returned because of system problems.

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<u>Federal Communications Commission</u>	
Docket No. <u>93-231</u>	Exhibit No. <u>6</u>
Presented by <u>PRIVATE RADIO BUREAU</u>	
Disposition	Identified <u>✓</u>
	Received <u> </u>
	Rejected <u> </u>
Reporter <u>M.K.F.</u>	
Date <u>2/1/94</u>	

* NOT OFFERED

Declaration of Raymon A. Bobbitt

I, Raymon A. Bobbitt, being of at least 21 years of age and a citizen of the United States of America do hereby declare under penalty of perjury as follows:

- (1) I am a graduate of Morehead State University majoring in Industrial Technologies Electronics Options.
- (2) I am a graduate of Ashland State Vocational Technical School majoring in electronics communications.
- (3) I am employed with RAM Technologies, Inc. as Director of Network Services and hold a current FCC General Radio Telephone License (Number PG-4-9175).
- (4) On November 15, 1990, Mr. Robert Moyer, President of RAM Technologies, Inc. asked me to confirm what he and others in the company felt was a potential interference problem on 152.480 Mhz. After monitoring the channel I concurred that the problem was intentional keying of a Charleston area station on or near 460.750 Mhz (which is used by RAM to control the local Charleston transmitter) effectively disabling the Charleston area.
- (5) During subsequent efforts to identify this interference I found an unusual amount of non RAM digital paging traffic on the 152.480 Mhz channel. Further investigations found what appeared to be identical digital traffic on 152.510 Mhz, an RCC paging channel assigned to Capitol Radio Telephone of Charleston. I concluded that Capitol was transmitting its digital RCC traffic on both 152.480 Mhz, a PCP frequency and simultaneously on 152.510 Mhz, an RCC frequency.

I, declare under penalty of perjury, that the foregoing is true and correct to the best of my own personal knowledge.

DATE EXECUTED: 11-26-90

BY: Raymon A. Bobbitt

Sworn and subscribed before me this 26th day of November, 1990.

Barbara J. Finrock
NOTARY PUBLIC

My commission expires: 3-21-94.